



Assetinsure

Owner-Builder Warranty Insurance - Victoria

Effective date: 01/10/2015



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Important Information

Introduction

Welcome and thank **you** for choosing the Assetinsure Owner-Builder Warranty Insurance distributed by Australian Owners Builders Insurance Services Pty Ltd.

About Assetinsure

The insurer of the **Policy** is Assetinsure Pty Limited (Assetinsure) ABN 65 066 463 803. In this document unless otherwise stated, the insurer is called “**We**”, “**Us**”, “**Our**” and/or “Assetinsure”. Their contact address is 44 Pitt Street, Sydney NSW 2000.

Assetinsure is a privately held company which is authorized by the Australian Prudential Regulation Authority (APRA) to conduct general insurance business. For further information visit their website at www.assetinsure.com.au

About AOBIS

This insurance is arranged by Australian Owner Builders Insurance Services Pty Ltd (AOBIS) ABN 95 122 431 654 operating under the AFSL No 308705. In arranging this insurance AOBIS is acting under the authority of and as the agent for Assetinsure.

Duty of Disclosure

Before **you** enter into the **Policy** with **us**, **you** have a duty, under the Insurance Contracts Act 1984, to disclose to **us** every matter that **you** know or could reasonably expect to know, is relevant to **our** decision whether to accept **your Application** for insurance, and, if so, on what terms and for how much premium.

You have the same duty to disclose those matters to **us** before **you** renew, extend, vary or reinstate the **Policy**.

The duty applies until the **Policy** is entered into or where relevant, renewed, extended, varied or reinstated (Relevant Time). If anything changes between the time **you** provide answers or make disclosure and the Relevant Time, **you** need to tell **us**.

Who Needs to Tell Us

The duty of disclosure applies to **you** and everyone that is an insured under the **Policy**. If **you** provide information for another insured, it is as if they provided it to **us**.

What You do not Need to Tell us

You do not need to tell **us** about any matter that:

- diminishes **our** risk;
- is of common knowledge;
- **we** know or should know as an insurer; or
- **we** tell **you** **we** do not need to know.

If **you** fail to comply with **your** duty of disclosure or have made a misrepresentation to **us**, **we** may be entitled to reduce **our** liability under the **Policy** in respect of a claim and / or **we** may cancel the **Policy**. If **you** have told **us** something which is fraudulent, **we** also have the option of avoiding the **Policy** (i.e. treating it as if it never existed).

Limitation or Exclusion of Rights Against Third Parties

This **Policy** provides that **you** must not limit or exclude **your** rights against a party from whom **you** might otherwise be able to recover in respect to the loss or damage - see Condition e) of this **Policy**.

Interested Parties

This **Policy** provides that the cover provided by this **Policy** does not extend to an interest in the **Dwelling** that is not **your** interest - see Condition f) of this **Policy**.

Privacy

Both AOBIS and Assetinsure are committed to safeguarding and protecting the privacy of personal information. **We** are bound by the provisions of the Privacy Act 1988 which sets out the standards to be met in the collection, holding, use and disclosure of personal information.

Purpose of Collection

We are collecting the personal information requested to determine whether and on what terms we might issue **you** an insurance **Policy** or to manage a claim in relation to an insurance **Policy** **you** have with **us**. If **you** don't provide all the information requested,



the main consequence is that **we** may not be able to issue **you** with a **Policy** or pay **your** claim.

We may use **your** personal information for other purposes if **you** consent. This may also be the case in other limited circumstances permitted under the Privacy Act 1988, such as where **you** would reasonably expect **us** to do so and/or the other purpose is related to the purpose for which **we** collected the information.

In some circumstances, **we** may collect **your** personal information from another person or another source. This will only be where it is unreasonable or impracticable for **us** to collect it directly from **you** or **you** would expect **us** to collect the information from the nominated third party. For example, where **you** authorise a representative, e.g. an insurance broker, a financial planner, a legal services provider, an agent or carer providing services to **you** to deal with **us** on **your** behalf.

Disclosure

In issuing and/or managing **your Policy** or claim **we** may need to disclose **your** personal information to, another insurer, **our** reinsurers, an insurance broker, **our** legal providers, **our** accountants, loss investigators or adjusters, anyone acting as **your** agent or regulatory bodies. **We** will only do so if it is reasonably necessary for, or directly related to the issuing or managing **your** insurance **Policy** or claim.

In disclosing **your** personal information to one of these parties it may be necessary to disclose **your** information overseas. The countries these parties usually operate in are, the USA, Canada, Bermuda, Europe (including the United Kingdom), parts of Asia, including but not limited to Singapore, Hong Kong and India. If **we** disclose the information overseas **you** should be aware that the overseas entity is not bound by the Privacy Act 1988 and so **you** would not be able to seek redress against them under the Privacy Act 1988. There may be no similar privacy law to the Privacy Act 1988 in the overseas party's country and **you** may also not be able to seek redress under the laws in the party's country. Assetinsure has sought written agreement from its overseas business partners that they will handle personal information in accordance with Assetinsure's Privacy policy.

Access and Complaint

Assetinsure's Privacy policy is available on Assetinsure's website www.assetinsure.com.au. It sets out details of how **you** can access (and if necessary correct) the personal information **we** hold about **you**. It also sets out how and to whom **you** might complain about a breach of Privacy Law.

If **you** require any other information regarding Privacy please contact; The Privacy Officer, by post at Assetinsure Pty Ltd, Level 3, 44 Pitt Street, Sydney NSW 2000, by email at privacy@assetinsure.com.au or phone (02) 8274 2898.

The General Insurance Code of Practice

The General Insurance Code of Practice (Code) was developed by the Insurance Council of Australia to further raise the standards of practice and service across the insurance industry.

We support and adhere to the Code. A copy of the Code can be obtained from the Insurance Council of Australia by visiting www.insurancecouncil.com.au or by phoning +61 2 9253 5100.

Dispute Resolution Process

At AOBIS and Assetinsure, **we** strive to do things the right way and keep **our** customers happy.

Making a Complaint

If **you** have a complaint concerning the financial product or services provided to **you** please tell AOBIS who provided **your** initial service. AOBIS will try their best to resolve **your** complaint as soon as possible, usually within 24 hours.

- phone: 1300 850 131
- post: P O Box 2294 Seaford VIC 3198
- email: underwriter@aobis.com.au

Internal Dispute Resolution Facility

If **you** remain dissatisfied with the solution AOBIS offers, please contact **us** and **we** will refer the matter to the Internal Dispute Resolution Facility (IDR) of Assetinsure.

They undertake to acknowledge **your** complaint and respond with a decision within 15 business days.



Our Agreement with You

This **Policy** is a legal contract between **you** and **us**. **You**, or any other person insured under this **Policy**, must comply with all provisions of this **Policy**, otherwise there may be no claim payable under this **Policy**.

This **Policy** will only respond to claims in connection with **Work** described in the Contract which supported the **Application** for this insurance, and carried out at the site described in the **Policy**.

Applying for Insurance

When **you** apply for this insurance, **you** will need to complete an **Application**. **You** need to provide the information **we** require to determine whether to issue a **Policy**, and if so, on what terms.

Where **we** issue a **Policy**, cover is provided on the basis:

- that **you** have paid or agreed to pay **us** the premium for the cover provided;
- of the verbal and/or written information provided by **you** which must be given in accordance with **your** duty of disclosure either verbally or in writing.

Your Policy

Your Policy consists of the **Policy** terms and conditions in this booklet, any endorsements and the **Certificate of Insurance** **we** issue **you**. Please read **your Policy** carefully, and satisfy **yourself** that it provides the cover that **you** require. **You** should keep this booklet and the **Certificate of Insurance** together in a secure place for future reference.

Goods and Services Tax (GST)

The premium on this **Policy** includes an amount for GST and if **we** pay a claim **your** GST status may determine the amount to be paid on the claim.

You must advise **us** if **you** are registered, or required to be registered, for GST purposes, and **you** must when requested tell **us** what **your** entitlement to Input Tax Credits (ITCs) is for **your** insurance premium.

When determining the amount to be paid for a claim under this **Policy**, any payment or supply **we** make to **you** for the acquisition of goods, services or other

supply (or monetary compensation in lieu thereof) or otherwise for **your** claim will be calculated on the GST inclusive cost of **your** claim. In calculating such payment, **we** are entitled to reduce it by any ITC to which **you** are, or would be, entitled:

- for the acquisition of such goods, services or other supply; or
- if the payment had been used to acquire such goods, services or other supply.

However, the total of all payments **we** make will not exceed the Sum Insured, limit or sub limit of liability, or other monetary limitation imposed or created by the **Policy**.

The Sum(s) Insured, limits and/or sub limits of liability, or any other monetary limitations are inclusive of any taxes, levies, duties or charges that the payment would be affected by or subject to.

If **you** make a claim and **we** are obliged by law to withhold any amount from the payment in order to satisfy that law (for example, because **you** have not provided **your** ABN where required to do so), the amount withheld will be treated as forming part of the claim payment paid under this **Policy** (even though **you** have not received the withheld amount).

Updating Information

If **you** need to confirm any **Policy** transaction or clarify any of the information contained in this document or if **you** have any queries, please contact AOBIS:

- phone: 1300 850 131
- post: P O Box 2294 Seaford VIC 3198
- email: underwriter@aobis.com.au

Definitions

Some key words and terms used in this **Policy** have special meanings. Wherever the following words or terms are used in the **Policy** they mean what is set out below.

Act means the Building Act 1993 as amended from time to time.

Application means the application form completed by the **Owner-Builder** applying for this insurance.

Building Practitioners Board means the same as it does in the **Order**.



Certificate of Insurance means the most recent certificate issued by **us**.

Completion Date means the same as it does in the **Order**.

Defective means the same as it does in the **Order**.

Disappearance (and its corresponding forms) means the same as it does in the **Order**.

Domestic Building Work means the same as it does under the **Order**.

Dwelling means the home (as defined in the **Order**) described in the **Application**.

Insolvent (and its corresponding forms) means the same as it does in the **Order**.

Insurable Contract of Sale means the same as it does under the **Order**.

Non-Structural Defect means the same as it does in the **Order**.

Order means the Order made under the **Act** by the Minister for Planning and as gazetted in May 2003 entitled 'Domestic Building Insurance Ministerial Order' as amended from time to time.

Owner-Builder means the owner-builder described in the **Application** who is also an owner-builder under the **Order**, but does not include owner-builders who are registered builders.

Policy means this policy wording, any endorsements and the **Certificate of Insurance**.

Statutory Warranty means a warranty implied into the **Insurable Contract of Sale** by section 137C of the **Act**.

Structural Defect means the same as it does in the **Order**.

Trade Practices Provision means the same as it does under the **Order**.

Tribunal means the same as it does in the **Order**.

You/your/yours means the purchaser of the **Dwelling** or the land on which the **Dwelling** is constructed, and any successor in title to that person.

It does not include:

- a) the **Owner-Builder**
- b) the purchaser, if the purchaser is a related body corporate (within the meaning of

section 50 of the Corporations Act 2001) of the owner builder; or

- c) the purchaser, if neither the purchaser nor the **Owner Builder** is a public company but each has a common director or shareholder.

We/us/our means Assetinsure Pty Limited (Assetinsure) (ABN 65 066 463 803).

Work means the **Domestic Building Work** which is carried out or to be carried out by the **Owner-Builder** to the **Dwelling**.

This **Policy** is intended to comply with the requirements set out under the **Order** and any term of this **Policy** which conflicts with, or is inconsistent with, the **Order** shall be read and be enforceable as if it complies with the **Order**.

Our Cover

We will provide insurance cover to **you**, subject to the terms, conditions and exclusions set out in this **Policy**, if the **Owner-Builder** dies, becomes **Insolvent**, or **Disappears** and **you** suffer:

- a) a loss or damage arising from a breach of a **Statutory Warranty**;
- b) the costs of alternative accommodation, removal and storage that are reasonably and necessarily incurred as a result of a breach of a **Statutory Warranty**. **We** will only pay the costs of alternative accommodation or storage that are reasonably and necessarily incurred for up to 60 days, excluding any period of delay attributable to **us**;
- c) the cover **we** give in paragraphs a) and b) above extends to the acts or omissions of all persons contracted by the **Owner-Builder** to perform the **Work**.

We will not be liable to pay the purchaser in respect of a **Statutory Warranty** that all materials used under the **Work** were new to the extent that any materials used were not new if:

- a) the condition report required by section 137B(2)(a) of the **Act** states that the materials were not new; or



- b) it was apparent from the nature of the relevant **Work** that the materials were not new.

Certificate of Insurance

- a) **We** must provide a **Certificate of Insurance** evidencing that insurance for the **Work** has been issued which complies with the **Order**:
 - i. to **you** immediately on the issue of this **Policy**; and
 - ii. on request by **you** or the **Builder** at any time.
- b) The **Certificate of Insurance** shall be in the form prescribed by the **Order**.
- c) Even though the **Owner-Builder** or another person who applies for this insurance may be required to pay the premium when lodging an **Application**, **we** may refuse to accept the **Application**. The **Work** is not covered until **we** have provided to the **Owner-Builder** or that other person a **Certificate of Insurance** evidencing insurance for the **Work**.

Period of Cover

- a) This **Policy** provides the cover in relation to **Non- Structural Defects** in respect of loss or damage occurring during the period
 - i. commencing on the date of the contract of sale; and
 - ii. ending 2 years after the **Completion Date** for the **Work**.
- b) Subject to paragraph a) above, this **Policy** provides the cover in respect of all other loss or damage occurring during the period
 - i. commencing on the date of the contract of sale; and
 - ii. ending 6 years after the **Completion Date** for the **Work**.

We will Pay

- 1. **We** will pay up to, but not more than \$300,000 in the aggregate, for all claims made under this **Policy** in respect of any one **Dwelling**, including reasonable legal costs and expenses incurred by the **Insured** associated with a successful claim against **us**.

- 2. If the claim is in respect of the cover for loss or damage resulting from conduct of the **Owner-Builder** which contravenes a **Trade Practices Provision**, **we** will only pay the costs of rectifying the **Work**.
- 3. If the **Work** is carried out on land in a plan of subdivision containing common property, any claim paid by **us** relating to the common property is applied pro rata to all such residences, and reduces **your** remaining available cover accordingly.

We will not Pay

- 1. Subject to paragraph 2 below, **you** must bear at **your** own risk:
 - a) the first \$1,000 of each claim first made more than 5 years after the **Completion Date**;
 - b) the first \$750 of each claim first made between 3 and 5 years after the **Completion Date**;
 - c) the first \$500 of each claim first made between 1 and 3 years after the **Completion Date**; or
 - d) a claim under \$500 made between 3 and 12 months after the **Completion Date**.
- 2. For the purposes of paragraph 1 above:
 - a) a claim of \$500 or more may relate to more than one defect if the amount claimed for any one or more defects is less than \$500.
 - b) The date when a claim is made is the earlier of:
 - i. the date when **you** first notify **us** of a circumstance that may give rise to a claim;
 - ii. and the date a claim is made.
 - c) An excess may be applied only once in relation to:
 - i. any claim comprising more than one defect; or
 - ii. two or more claims that relate to the same defect.



Exclusions

- a) We will not pay if **you** are the **Owner-Builder**.
- b) We will not pay if **your** claim relates to a person who is excepted under the **Order**.
- c) We will not indemnify **you** unless **your** claim relates to an **Insurable Contract of Sale** and:
 - i. section 137B of the **Act** applies to that **Insurable Contract of Sale**; and
 - ii. **Work** was carried out on the **Dwelling** before the sale; and
 - iii. the value of the **Work** exceeded \$16,000 at the time the **Work** was carried out.
- d) We will not pay any claims in respect of any defect or incomplete **Domestic Building Work** that is referred to in the report to be provided to a purchaser under section 137B of the **Act**.
- e) We will not pay for loss or damage in respect of **Work** relating to landscaping, paving, retaining structures, driveways or fencing, with the exception of such works which:
 - i. are integral to the construction of a building;
 - ii. require the issue of a building permit under the **Act**;
 - iii. could result in water penetration of or within a building;
 - iv. could adversely affect health or safety;
 - v. adversely affect the structural adequacy of a building; or
 - vi. are not completed and the **Owner-Builder** has died, become **Insolvent** or **Disappeared**.
- f) We will not pay for loss or damage due to fair wear and tear of the **Work**, or from **your** failure to maintain the **Work**.
- g) We will not pay for loss or damage incurred as a result of:
 - i. War, invasion, acts of foreign enemies, hostilities, or war-like operations (whether war be declared or not) or civil war;
 - ii. A nuclear reaction, nuclear radiation, radioactive contamination or nuclear weapon material;
 - iii. Mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, military or usurped power, confiscation, nationalisation, requisition, or destruction of or damage to property by or under order of any government, public or local authority or looting, sacking or pillage following any of the above;
 - iv. Risks normally insured under a policy for public liability or contract works;
 - v. Asbestos, or any materials containing asbestos in whatever form or quantity;
 - vi. An act of God or nature;
 - vii. **Your** failure to maintain appropriate protection against pest infestation or exposure to natural timbers;
 - viii. Consequential loss, not otherwise covered by the **Order**;
 - ix. Malfunction in any mechanical or electrical equipment or appliance, if **we** prove that the malfunction is not attributable to the workmanship of, or installation by the **Owner-Builder**.

Claims Procedure

1. **You** should notify **us** of any facts or circumstances which may give rise to a claim as soon as **you** become aware of them to ensure that **you** comply with the requirements set out in paragraph 2 below.
2. **We** may refuse to accept a claim if it is made later than 180 days after the date on which **you** first became aware, or might reasonably be expected to have become aware, of the death, **Disappearance** or **Insolvency** of the **Owner-Builder**.
3. If **you** give **us** written notice within 180 days after the date on which **you** first became aware, or might reasonably be expected to become aware, of the death, **Disappearance**



or **Insolvency**, of the **Owner-Builder**, **we** will not rely on section 54 of the Insurance Contracts Act 1984 to reduce **our** liability under this **Policy**, or to reduce any amount otherwise payable in respect of a claim made by reason only of a delay in a claim being notified to **us**.

4. If **you** submit a claim to **us** in writing, **we** will make a decision regarding **our** liability within 90 days of receipt of the claim. If **we** do not make a decision regarding **our** liability within 90 days then, unless **we** receive an extension of time from **you** or the **Tribunal**, **we** will be deemed to have accepted liability for the claim.
5. If **you** wish to dispute **our** decision regarding **your** claim, **you** may appeal to the **Tribunal**. If **we** are given notice of proceedings before the **Tribunal**, **we** will accept findings made by the **Tribunal** as to whether any of the following events has occurred:
 - a) the non-completion of the **Work**;
 - b) an event referred to in paragraphs a) to c) under the section of the **Policy** entitled 'Cover'; and
 - c) if such an event has occurred, the amount of loss or damage suffered by **you** as a result of the event.
6. If **you** notify **us** of a defect (the initial defect), **we** will consider **you** to have given **us** notice of every other defect to which the initial defect is directly or indirectly related, whether or not the claim in respect of the initial defect is settled.
7. **You** must use **our** claim form to make a claim.
8. Upon making a claim under this **Policy**, **you** must:
 - a) comply with any reasonable direction by **us** in relation to the completion or rectification of the **Work**;
 - b) not undertake or cause to be undertaken, any rectification work without notifying **us**, unless those works are reasonably necessary to prevent or minimise any further loss or damage;
 - c) provide **us**, or any builder nominated or approved by **us**, with reasonable access to the relevant building site for the purpose of

inspection, rectification and completion of the **Work**. **You** may refuse to provide access to any builder nominated by **us** if **you** have reasonable grounds for doing so (such as loss of confidence in the builder); and

- d) **We** may not reduce **our** liability to **you** by reason of **your** failure to comply with a requirement under paragraphs 5 a), b) and c) above, unless **we** can prove that **your** failure increased **our** liability under this **Policy**.
9. **You** must not make any admissions, offer, promise or payment in connection with any claim.

Conditions

- a) **We** may not avoid this **Policy** or refuse to make or reduce any payment under this **Policy** on the grounds that:
 - i. the **Owner-Builder** breached any duty of the utmost good faith;
 - ii. the **Owner-Builder** failed to comply with any duty of disclosure;
 - iii. the **Owner-Builder** made representations to **us**;
 - iv. the **Owner-Builder** failed to comply with a provision or requirement of the **Policy**;
 - v. the **Owner-Builder** prejudiced **our** interests by act or omission of any description; or
 - vi. the premium or any instalment of the premium has not been paid.
- b) **We** are entitled to recover from the **Owner-Builder** any claim paid by **us** in the circumstances referred to in paragraph a) above.
- c) If **we** pay a claim, **we** are entitled to be subrogated to **your** rights against any party in relation to the claim to the extent of the amount paid by **us**.
- d) **We** will notify the **Building Practitioners Board**, at the times and in the manner agreed with the Board, in the event that:
 - i. a **Builder** is refused insurance, ceases to be eligible to renew or procure



insurance or, in respect of **Domestic Building Work** performed prior to the commencement of the **Order**, fails to purchase or maintain required insurance;

- ii. any claim under this **Policy** is settled or paid by agreement or otherwise.
- e) **You** must not limit or exclude **your** rights against a party from whom **you** might otherwise be able to recover in respect to the loss or damage. If **you** do, **our** liability to **you** is reduced to the extent **we** can no longer recover from that other party as a result of the limitation or exclusion by **you**.
- f) the cover provided by this **Policy** does not extend to an interest in the **Dwelling** that is not **your** interest. **We** will not be liable under this **Policy** to anyone except **you**.
- g) **You** must take reasonable precautions to avoid or minimise loss or damage covered by this **Policy**.
- h) **You** must comply with **your** obligations under the **Policy**. Otherwise **we** may not have to pay **your** claim(s).

Other Matters

How We will Communicate

- a) All communications **you** are required to give or make under this **Policy** must be sent in writing to **us**.
- b) All communications **we** are required to give or make under this **Policy** will be sent in writing to **you** at the address specified in the **Certificate of Insurance** or as notified by **you** from time to time.
- c) All communications sent by post to **you** or **your** appointed agent will be deemed to have been received by **you** on the third day following the day of posting.
- d) All communications sent by facsimile to **you** or **your** appointed agent will be deemed to have been received by **you** on the date of transmission.

Jurisdiction

This **Policy** is governed by the law of Victoria. The law of Victoria includes Commonwealth legislation such as the Insurance Contracts Act 1984. Any rights to refuse to pay a claim are subject to section 54 of that Act.